Supreme Court, U.S.
FILED
NOV 17 1988
JOSEPH F. SPANIOL, JR.
CLERK

(6) (5)

Nos. 87-1943 and 87-1956

In the Supreme Court of the United States

OCTOBER TERM, 1988

MINNESOTA NEWSPAPER ASSOCIATION, INC., APPELLANT

v.

ANTHONY M. FRANK, POSTMASTER GENERAL OF THE UNITED STATES, ET AL.

ANTHONY M. FRANK, POSTMASTER GENERAL OF THE UNITED STATES, ET AL., APPELLANTS

v.

MINNESOTA NEWSPAPER ASSOCIATION, INC.

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA

JOINT APPENDIX

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JURISDICTIONAL STATEMENTS IN NOS. 87-1943 AND 87-1956 FILED MAY 27, 1988
PROBABLE JURISDICTION NOTED OCTOBER 3, 1988

28 pp

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TABLE OF CONTENTS*

		Page
1.	Relevant docket entries in the district court	1
2.	Complaint	2
3.	Answer	10
4.	Affidavit of Linda I. Falkman	14
5.	Affidavit of Mark R. Anfinson	17
6.	Exhibit B to Memorandum of Law in Support of Plaintiff's Motion for Summary Judgment	21
7.	Orders noting probable jurisdiction	25

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* The opinion and judgment of the district court are printed in the appendix to the jurisdictional statement in No. 87-1956 and have not been reproduced herein.

RELEVANT DOCKET ENTRIES

DATE	NR.	PROCEEDINGS
9-15-86	1	COMPLAINT – summons issued/by Mpls.,
12-15-86	6	ANSWER OF DEFTS.
6-23-87	7	DEFTS. NO/MO FOR SUMMARY JUDGMENT, Ret. before __ on 8-28-87 at 9:00 a.m.
	9	AFFIDAVIT OF LINDA I. FALKMAN
	10	AFFIDAVIT OF MARK R. ANFINSON wi/att exhibits
1-6-88	13	MEMORANDUM AND ORDER (PAM/ 12-31-87) that the motion of Deft. Postmaster General for summary judgment is PARTIALLY GRANTED and the motion of pltf. MNA is PARTIALLY DENIED; the mo[ti]on of pltf. MNA for summary judgment is PARTIALLY GRANTED and the motion of Postmaster General is PARTIALLY DENIED; the deft is permanently enjoined from further enforcement of the restrictions on prize lists; the motion of deft. Postmaster General to strike affs. is denied. cc:attys (pk)
	14	JUDGMENT (entered)
1-28-88	15	DEFENDANTS' NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES FROM JUDGE MAGNUSON'S MEMORANDUM AND ORDER OF 12-31-87.
1-29-88	16	PLAINTIFF'S NOTICE OF CROSS-APPEAL TO THE SUPREME COURT OF THE UNITED STATES FROM JUDGE MAGNUSON'S MEMORANDUM AND ORDER OF 12-31-87.
2-01-88		Mailed a copy of the Notice of Appeal, Notice of Cross-Appeal and District Court Clerk's Docket Entries to Counsel.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

Civil No. 3-86-806

MINNESOTA NEWSPAPER ASSOCIATION, INC., PLAINTIFF,

v.

POSTMASTER GENERAL OF THE
UNITED STATES, UNITED STATES POSTAL SERVICE, AND
UNITED STATES OF AMERICA, DEFENDANTS.

COMPLAINT

For its Complaint, plaintiff Minnesota Newspaper Association, Inc. alleges as follows:

SUMMARY OF COMPLAINT

1. In this action plaintiff Minnesota Newspaper Association, Inc. is asking the Court for declaratory and injunctive relief against defendants. Plaintiff believes that 18 U.S.C., Section 1302, 39 U.S.C., Section 3001, and 39 U.S.C., Section 3005 are unconstitutional as applied by the United States Postal Service to plaintiff and plaintiff's members. They should therefore be declared void. Plaintiff further is seeking an injunction against agents and employees of the United States Postal Service prohibiting them from threatening to enforce or enforcing these statutes with respect to plaintiff and its members.

JURISDICTION

2. Jurisdiction is conferred on this Court by 28 U.S.C., Section 1339, since the action arises under an Act of Congress relating to the postal service. Jurisdiction is further based on 28 U.S.C., Section 1331(a) because this action arises under a provision of an Act of Congress and the matter in controversy involves a sum of more than $10,000, exclusive of interests and costs. Since plaintiff is asking for declaratory and injunctive relief, jurisdiction is also invoked under 28 U.S.C., Sections 2201 and 2202.

VENUE

3. Venue is proper in this district under 18 U.S.C., Section 1391(e).

PARTIES

4. Plaintiff Minnesota Newspaper Association, Inc. (MNA) is a corporation organized under the laws of the State of Minnesota, with its principal offices in Minneapolis. It is an association of all of the general interest newspapers and many of the special interest newspapers in Minnesota, and is the primary advocate and representative of the organized newspaper press in the state.

5. Defendant Postmaster General heads defendant United States Postal Service, and as such is responsible for enforcement of the statutes and regulations described in this Complaint. At the time of the filing of this Complaint, the office of Postmaster General is vacant. Plaintiff intends to name the Postmaster General individually once he or she is designated. The United States Postal Service (USPS) is an agency of the United States government, organized as a public corporation under the authority of Congress. The United States is also named as a

defendant because through its various branches and agencies it is ultimately responsible for the organization and administration of the USPS.

FACTS

6. The member newspapers of MNA as well as MNA itself are engaged in the sale and distribution of newspapers and newspaper advertising, among their other activities. In connection with this sale and distribution, they frequently use the United States mail.

7. Many entities and organizations in the State of Minnesota conduct various types of legal gaming activities. Said entities and organizations primarily consist of churches, veterans' groups, civic organizations, nonprofit entities, as well as bingo operations conducted on reservations by American Indian tribes. The primary gaming activities consist of bingo games and similar lottery operations in which winners are generally determined by chance.

8. The gaming activities just described are all lawfully and properly conducted in Minnesota, being licensed and regulated by the Minnesota Charitable Gambling Board, with one exception. This exception involves gaming operations of the American Indian tribes, which are not regulated by the state but are subject to federal law.

9. MNA and its member newspapers frequently desire to provide news coverage of or promote said gaming activities, since there is widespread public interest and participation in them, and because they often are conducted for civic purposes and community benefit.

10. MNA and its member newspapers have also repeatedly been approached by representatives of the gaming organizations described above, who have requested the placement of newspaper advertising promoting and describing their gaming activities.

11. 18 U.S.C., Section 1302 provides in pertinent part as follows:

> Whoever knowingly deposits in the mail, or sends or delivers by mail:
>
> Any newspaper, circular, pamphlet, or publication of any kind containing any advertisement of any lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance, or containing a list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes;
>
> Shall be fined not more than $1,000 or imprisoned not more than two years or both; and for any subsequent offense shall be imprisoned not more than five years.

12. 39 U.S.C., Section 3001(a) provides in pertinent part that matter deposited in the mails which is punishable under 18 U.S.C., Section 1302 is nonmailable.

13. 39 U.S.C, Section 3005 provides in pertinent part that the United States Postal Service may take certain actions to prevent use of the mail in connection with activities distributing money or property by "lottery, chance, or drawing of any kind."

14. The substance of the statutes described above are reflected in Section 123.42 and other sections of the Domestic Mail Manual, which contains the duly adopted regulations of the USPS.

15. MNA and its members have sought to comply with the statutes described above. As a result of these statutes and due to the interpretation and application of these statutes adopted by the USPS by formal regulation and otherwise, MNA and its members have been required to

refuse advertising involving the legal gaming activities described above.

16. Because the language of the statutes is vague and unclear, and because their interpretation and application by the USPS have been inconsistent, arbitrary, and confusing, MNA and its members have no clear idea as to what may be lawfully published and have found it necessary to avoid publishing not just advertising but nearly all copy involving gaming activities dependent on chance for fear of being subjected to the sanctions and penalties described above.

17. In many cases where a newspaper has proposed to publish or has inadvertently published such advertising or other copy, the newspaper has been threatened with sanctions and penalties by representatives of the USPS. Further, the USPS has directly told MNA to notify its members that further publication would cause the USPS to seek penalties under the statutes against offending newspapers.

18. All of the copy referred to in this Complaint involves gaming activities that are entirely lawful under both state and federal law, and which are permitted and regulated by the state or federal governments.

COUNT ONE

19. The statutes described above violate the free speech and free press guarantees of the First Amendment to the United States Constitution as applied to the states through the Fourteenth Amendment, because they prohibit and chill the dissemination by plaintiff and its member newspapers of truthful information about lawful activities. The receipt of such information would be of great benefit to the public.

20. The actions of agents and employees of the USPS, as well as the Postal Service's duly adopted regulations under the above-described statutes violate the First Amendment to the United States Constitution as applied to the states through the Fourteenth Amendment, because they prohibit and chill the dissemination by plaintiff and its member newspapers of truthful information about lawful activities.

COUNT TWO

22. Because the prohibitions of the statutes described above apply only to mailed matter, and not to most other methods of disseminating information about lawful gaming activities, the statute violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution by discriminating in favor of certain media of dissemination that are not required to use the mails. This classification cannot be supported by any identifiable state interest.

COUNT THREE

22. The statutes described above are overbroad in that they do not distinguish between the dissemination of information about lawful and unlawful activity. By failing to make this distinction, the statutes are over-inclusive and therefore unconstitutional as applied to plaintiff and its members.

COUNT FOUR

23. The statutes described above violate the Due Process Clause of the Fourteenth Amendment to the United States Constitution because the government's interference with the constitutional guarantees of plaintiff and plain-

tiff's members is not supported by any significant state interest, it is not closely tailored to effectuate any state interest that may exist, and there is no rational relationship between any legitimate state purpose and the means employed to achieve this purpose.

24. There exists an actual controversy among the parties to this Complaint. Plaintiff has no adequate remedy at law.

WHEREFORE, plaintiff Minnesota Newspaper Association, Inc. asks the judgment of this Court as follows:

A. For a declaration that 18 U.S.C., Section 1302, 39 U.S.C., Section 3001, and 39 U.S.C., Section 3005, as applied to plaintiff and its member newspapers are unconstitutional and therefore void to the extent they prohibit or interfere with the publication of information about lawful gaming activities, regardless of the form.

B. For a declaration that rules and regulations promulgated by the USPS under said statutes are similarly unconstitutional and therefore void.

C. For a permanent injunction enjoining defendants and their agents and employees from threatening to enforce or enforcing said statutes or rules and regulations adopted pursuant to these statutes against plaintiff or plaintiff's newspaper members in the cases described in paragraph A above.

D. For costs, disbursements, and attorney's fees incurred by plaintiff in connection with this action.

E. For such other relief as the Court believes to be just and proper.

DATED: September 15, 1986.

/s/ MARK R. ANFINSON

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UNITED STATES DISTRICT COURT
THIRD DIVISION
DISTRICT OF MINNESOTA

Civil Action No. 3-86-806

MINNESOTA NEWSPAPER ASSOCIATION, INC., PLAINTIFF,

v.

POSTMASTER GENERAL OF THE UNITED STATES,
UNITED STATES POSTAL SERVICE, AND
UNITED STATES OF AMERICA, DEFENDANTS.

[Filed Dec. 15, 1986]

ANSWER

Defendants, by their undersigned attorneys, answer the complaint as follows:

First Defense

The complaint fails to stated a claim upon which relief can be granted.

Second Defense

Plaintiff lacks standing to maintain this action.

Third Defense

The complaint does not present a justiciable case or controversy.

Fourth Defense

Defendants answer the numbered paragraphs of the complaint as follows:

1. Paragraph 1 contains plaintiff's characterization of its action and conclusions of law, not averments of fact to which an answer is required, but insofar as an answer may be deemed required, defendants deny paragraph 1.

2. As to paragraph 2, defendants admit that the Court has jurisdiction by virtue of 28 U.S.C. §§ 1331 and 1339, and deny the remainder of the paragraph.

3. As to paragraph 3, defendants admit that the venue is proper, pursuant to 28 U.S.C. § 1391(e).

4. Defendants are without knowledge or information sufficient to form a belief as the truth of the allegations in paragraphs 4, 6, 7, 8, 9, 10, 15, and 18.

5. Defendants deny paragraph 5, except to admit that the U.S. Postal Service is an independent establishment of the executive branch of the Government of the United States, under the direction of a Board of Governors; that the Postmaster General is its chief executive officer, responsible for its overall operation; and that the U.S. Postal Service is responsible for the enforcement of 39 U.S.C. §§ 3001 and 3005. Defendants also deny that the United States is a proper defendant to this action.

6. As to paragraphs 11 and 13, defendants admit that the paragraphs describe in part certain portions of 18 U.S.C. § 1302 and 39 U.S.C. § 3005, but the Court is referred to those sections for their contents.

7. Defendants deny paragraph 12, and the Court is referred to the cited statute for a correct statement of its provisions.

8. As to paragraph 14, Defendants deny that the substance of 39 U.S.C. § 3005 is reflected in Section

123.42 and other sections of the Postal Service's Domestic Mail Manual, and admit the remainder of the paragraph.

9. Defendants deny the allegations in paragraph 16, that "the language of the statutes is vague and unclear" and "their interpretation and application by the USPS have been inconsistent, arbitrary, and confusing." Defendants are without knowledge or information sufficient to form a belief as to the truth of the other allegations of paragraph 16.

10. Defendants are without knowledge or information sufficient to form a belief as to the allegations in paragraph 17, but are not aware of any such threats or notifications to plaintiff.

11. Paragraphs 19 through 23 (Counts One through Four) contain averments of fact, as well as conclusions of law, and, insofar as an answer may be required, defendants deny all of them.

12. As to paragraph 24, Defendants deny the existence of a case or controversy for lack of specific evidence of any "threats" made to plaintiff.

13. Defendants hereby specifically deny any allegations of the complaint not hereinbefore otherwise answered.

Respectfully submitted,

RICHARD K. WILLARD
Assistant Attorney General

JEROME G. ARNOLD
United States Attorney

LYNN A. ZENTNER
Assistant United States Attorney

/s/ Theodore C. Hirt
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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

Civil No. 3-86-806

MINNESOTA NEWSPAPER ASSOCIATION, INC., PLAINTIFF,

v.

POSTMASTER GENERAL; UNITED STATES POSTAL SERVICE; AND UNITED STATES OF AMERICA, DEFENDANTS.

AFFIDAVIT OF LINDA I. FALKMAN

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Linda I. Falkman, being first duly sworn, on oath states as follows:

1. I am Executive Director of the Minnesota Newspaper Association (MNA), and I have served in this capacity since February, 1984. Prior to being appointed Executive Director, I served as Assistant Executive Director of MNA for nine years.

2. The Minnesota Newspaper Association is a trade association representing virtually all of the newspapers in the state of Minnesota.

3. In my role as Executive Director, I have developed an extensive personal familiarity with the problems caused for Minnesota newspapers by the postal lottery statutes.

4. Nearly all of the newspapers in Minnesota rely heavily on the United States mail to distribute their pub-

lications. Particularly in the case of the smaller, non-metro newspapers, a substantial percentage of the circulation of the newspaper is distributed through the mail. If the mail was not available, most of these newspapers would be unable to distribute their issues, since only rarely are there financially feasible alternatives available to them.

5. Each year the postal lottery statutes force Minnesota newspapers to reject not only a great deal of advertising, but also much news copy, all of which I believe would be of considerable benefit to the reader of the newspapers.

6. MNA itself also is significantly inhibited by the postal lottery statutes because it acts on behalf of individual newspapers in selling advertising throughout the country. MNA also distributes advertising, editorials, and promotional copy to newspapers by means of the mail.

7. In June, 1985 I was personally contacted by a United States Postal Inspector from the St. Paul office of the USPS. He explained that he wanted to meet with me because there appeared to be an increasing number of controversies involving the postal lottery statutes occuring throughout the state. During our meeting he requested that I warn newspapers that it is a criminal act to carry lottery advertising and similar matter. I communicated this warning to the membership, and I believe it has further chilled the publication of information about gaming.

8. I believe there is a serious problem with defining exactly what types of lotteries and other games of chance are prohibited by the statutes. I get many questions about this every year from newspapers in Minnesota. There is much doubt among Minnesota newspapers concerning what can be published and what cannot be. As a result of this uncertainty, there is a considerable amount of advertising and

other matter about gaming and gambling that is simply not published.

9. I have reviewed the attached Affidavit of Mark R. Anfinson, and I can confirm from my own experience that the statements in his Affidavit are accurate.

FURTHER YOUR AFFIANT SAITH NOT.

/s/ LINDA I. FALKMAN
Linda I. Falkman

Subscribed and sworn to before me
this 28th day of August, 1987.

/s/ MARK R. ANFINSON
Notary Public—Minnesota

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

Civil No. 3-86-806

MINNESOTA NEWSPAPER ASSOCIATION, INC., PLAINTIFF,

v.

POSTMASTER GENERAL; UNITED STATES POSTAL SERVICE; AND UNITED STATES OF AMERICA, DEFENDANTS.

AFFIDAVIT OF MARK R. ANFINSON

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Mark R. Anfinson, being first duly sworn, on oath states as follows:

1. I presently serve as attorney for the Minnesota Newspaper Association (MNA), and I have held this position for approximately the past five years.

2. A substantial portion of my professional work for MNA involves counselling newspapers about the meaning and application of various state and federal statutes. In the course of such counselling, I engage in much conversation and correspondence with publishers, editors, and other newspaper staff members. Because of my position, I believe there are few people in the state who have a more comprehensive view of the legal problems of Minnesota newspapers than I do.

3. Over the past few years, I have received a steadily increasing number of questions from newspapers about

the meaning and application of the postal lottery statutes. It is clear that this increase is due to the expansion of lawful gaming in Minnesota. The questions have related not only to advertising, but also to news stories, lists of prizes, public announcements, pictures of winners, community billboard items, editorials, and virtually all other types of copy that might appear in a newspaper.

4. The great majority of questions I receive concerning the statutes involves advertising and other newspaper copy that is neither false nor misleading. In fact, nearly all newspapers have a policy against publishing untruthful or misleading advertising.

5. From my experience, I can testify with certainty that there is an enormous amount of confusion in the newspaper industry and among advertisers as to what sorts of activity the postal lottery statutes apply to. Because of the way the statutes are drafted, I am often unable despite considerable work with this subject to provide newspapers with specific guidelines about what the law prohibits.

6. Because mailing privileges are essential to most newspaper operations, newspapers have had to deal with the statutory prohibitions very conservatively. As a result, the prohibitions have caused a near total ban on any gambling or gaming advertising in Minnesota newspapers.

7. I have personally been involved in or am otherwise familiar with many instances over the past few years where local, regional, and national postal officials have threatened individual newspapers with sanctions for violating the postal lottery statutes. In issuing these threats, the various postal officials have often been inconsistent in their interpretations of the law.

8. The prohibitions have also caused a severe chill on the publication of items of any kind about legal gaming and gambling, including news stories, promotional items,

feature stories, editorials, community calendar items, pictures, and the like.

9. Over the years I have had numerous conversations with various postal officials charged with enforcement of the statutes. They have frankly acknowledged to me in many of those conversations that they are not certain about what the statutes mean, and that they regard the statutes as largely outmoded, and that the enforcement responsibilities are mainly an annoyance that distracts them from more important duties.

10. These statutes also cause many practical difficulties for local newspapers. They are put in a position of having to refuse all promotional or advertising material for worthy local fund raising and charitable events if those events might involve any game of chance. Rarely do local civic leaders understand the reasons for the refusal, and they often blame the newspaper for being unreasonable.

11. A recent example among many that might be cited to illustrate the arbitrariness and confusion that surrounds application of the postal lottery statutes is as follows. In October, 1986 an attorney in Crosby, Minnesota, wrote the local postmaster on behalf of several charitable groups of which the attorney was a member.

The attorney submitted to the postmaster two proposed advertisements promoting the annual fund raising bingo benefit for the Crosby Volunteer Fire Department. The advertisements had been refused by the newspaper based on my advice that the copy appeared to constitute the type of matter that postal authorities had previously held to be a violation of the statutes.

In response to the attorney's request, the postmaster apparently contacted the Chicago Regional Office of the USPS, and in November replied to the attorney that the advertisements in question "are acceptable so long as they neither solicit money nor property."

When I learned of this interpretation, I personally contacted the Chicago Regional Office of the USPS since it appeared to be inconsistent with other determinations. I spoke in some detail and corresponded with officials in Chicago. They decided to refer the matter to the Washington Headquarters of the USPS, but their conclusion was that the advice rendered to the Crosby postmaster seemed incorrect, and that the material was probably not mailable.

I still have not received a response from the USPS in Washington despite the passage of several months. This example illustrates how inconsistent and confusing the application of the laws can be, and how difficult it is for newspapers and members of the community to know when they may publish particular matter.

FURTHER YOUR AFFIANT SAITH NOT.

/s/ MARK R. ANFINSON
Mark R. Anfinson

Subscribed and sworn to before me
this 28th day of August, 1987.

/s/ ALICE J. ENGSTROM
Notary Public

Exhibit B to Memorandum of Law in Support of Plaintiff's Motion for Summary Judgment

Overview of Gaming Activities in Minnesota and the United States[1]

Gambling and games of chance have a long history. In America, they appeared at least as early as the original English settlement at Jamestown, Virginia.

Lotteries in particular became popular in the mid-1800's. But the regulations and prohibitions that were triggered as the result of widespread corruption, combined with a new social and moral hostility to gambling, significantly reduced legal gambling. Until after World War II gambling activities enjoyed only modest participation among the general public.

In the last 15 or 20 years however there has been a marked increase in gambling participation throughout the country. As the figures below demonstrate, in most regions gambling (or gaming as it is known in the industry) is now a popular and accepted form of entertainment in its many varieties.

Currently the major forms of gambling in the United States are bingo, card rooms, casinos, greyhounds, harness racing, quarter horses, thoroughbred racing, jai-alai, lotteries, numbers games, lotto, and video lotteries. Nearly all states permit at least some types of gambling. At present only four states—Hawaii, Indiana, Mississippi, and Utah—do not permit any form of gambling.

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[1] Sources: *S. Rep. 98-537, 98th Cong. 2d Sess. 1* (6/28/84); various recent issues of *Gaming and Wagering Business* (a leading trade publication); personal interviews and correspondence with Minnesota Charitable Gambling Control Board; miscellaneous other sources.

At least 22 states sponsor lotteries, bingo is legal in 45 states, greyhound racing in 15 states, horse racing in 36 states, and casinos in Nevada and New Jersey.

In 1984 an estimated 177 billion dollars were handled in both legal and illegal United States commercial gambling. Gross gambling revenues for 1984 were about 18.8 billion dollars, an increase of nearly 12% over 1983.

Gambling has in fact become one of the most popular forms of recreation in the country. Revenues in 1984 were more than four times as large as the total receipts generated by United States movie houses. It is estimated that about 12% of all recreational spending by Americans went to gambling in 1984.

Contrary to some perceptions, illegal gambling revenues comprise a relatively small portion of the total market share. Estimates are that in 1984 illegal gambling constituted approximately 28% of the total revenues.

The 72% of total gaming revenues from legal gambling was distributed a: follows in 1984: Casinos—26.9%; lotteries—22.1%; parimutuel betting—15.7%; bingo and other charitable gaming—7.1%; and legal bookmaking—.3%.

The state sponsored lotteries are the fastest growing form of gaming. They increased nearly 40% between 1983 and 1984. Also growing rapidly are legal bookmaking and charitable gaming.

State lottery growth has been particularly dramatic at least in part because many lawmakers believe that it is a less painful method of increasing state revenues. Minnesota does not yet have a state lottery, although the current governor and many state legislators have been aggressively promoting the idea.

The figures described above do not include gambling on American Indian reservations. Such figures are difficult to

verify, but fragmentary statistics show that the volume of gaming activity on the reservations has been increasing significantly in recent years.

In short, over the past 20 years or so there has been a major change in public attitudes towards gaming in America.

Charitable gaming is highly regulated in Minnesota, as in most other states. In Minnesota, several forms of gambling are permitted by state law. This of course includes the recently authorized horse racing conducted at Canterbury Downs. However, the great majority of legal gambling activity in Minnesota falls into the category of charitable gaming.

The Board has jurisdiction over all charitable gambling. Any fraternal, religious, veterans, or other nonprofit organization with essentially charitable purposes may apply for a license to engage in certain gaming activities. Charitable gaming in Minnesota consists primarily of bingo, raffles, paddlewheels, tipboards, and pull tabs.

The state licensing scheme has become quite rigorous, and the Charitable Gambling Control Board requires a significant amount of information about a licensee both in initial license applications and in mandatory annual reports.

Precise statistics for legal gambling activity in Minnesota (other than horse racing) are unavailable, since until very recently charitable gambling regulation was a hodgepodge of state and local control. However, in 1984 the Legislature established the Charitable Gambling Control Board, and as of July 1, 1985, all charitable gambling activities were required to come under state licensing and regulation.

In the first six months subject to full state regulation (approximately July-December 1985), the gross revenues

of charitable gambling organizations in Minnesota appears to total about 120 million dollars. The basis of this calculation is that 10% of all net profits on charitable gaming must be paid to the state. These figures project yearly gross receipts for charitable gambling in Minnesota of about 250 million dollars. The state also collects license fees from charitable gaming operations in addition to its share of the receipts.

During this initial period of state regulation, the most reliable figures indicate that bingo accounted for about 25-30% of all receipts.

As of approximately January 1, 1986 there were 1821 charitable organizations licensed to conduct gaming activities at 2400 separate sites throughout the state. There are no good figures on the number of Minnesotans who participate in charitable gaming since licensees are not required to report this information. However, based on revenues it is reasonable to assume that participation is widespread.

More exact figures are available for gambling on horse racing in Minnesota, which was just legalized in 1985. It is estimated that 90% of the 1.1 million people who attended Canterbury Downs' first season were Minnesota residents. The total amount of money wagered at Canterbury Downs in 1985 totaled just slightly over 84 million dollars. From the various taxes and other fees collected at the track, the state earned approximately five million dollars.

Supreme Court of the United States

No. 87-1943

MINNESOTA NEWSPAPER ASSOCIATION, INC., APPELLANT

v.

POSTMASTER GENERAL OF THE UNITED STATES, ET AL.

October 3, 1988

APPEAL from the United States District Court for the District of Minnesota. The statement of jurisdiction in this case having been submitted and considered by the Court, in this case probable jurisdiction is noted. This case is consolidated with 87-1956, *Anthony M. Frank, Postmaster General of the United States, et al.* v. *Minnesota Newspaper Association, Inc.*, and a total of 1 hour is allotted for oral argument.

Supreme Court of the United States

No. 87-1956

ANTHONY M. FRANK, POSTMASTER GENERAL OF THE UNITED STATES, ET AL., APPELLANTS

v.

MINNESOTA NEWSPAPER ASSOCIATION, INC.

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U.S. GOVERNMENT PRINTING OFFICE 1988—241 [illegible]